

## Will Whitman Be Prosecuted for 9/11 Lies?

Tuesday, 12 September 2006

NEW YORK — Congressman Jerrold Nadler (D-NY), Congressman Anthony Weiner (D-NY) and Congressman Bill Pascrell, Jr. (D-NJ) today wrote Attorney General Alberto Gonzalez requesting that a Special Counsel be appointed to investigate whether criminal charges should be brought against former EPA Administrator Christine Todd Whitman, and against other government officials, for taking actions that may have endangered the lives of thousands of people following the September 11th, 2001 terrorist attack on the World Trade Center in New York.

"Christie Whitman repeatedly declared the air safe, and now thousands of people are sick, and some have died, from World Trade Center contamination," said Rep. Nadler. "To add insult to injury, she just went on 60 Minutes and tried to blame everybody else for her misdeeds. She must be held accountable," he added.

"Christie Whitman lied to the public about the health hazards at Ground Zero and endangered lives," said Rep. Weiner. "We must ensure that the accountability for these actions is not lost in a cloud of finger-pointing. Only with the appointment of a special prosecutor with subpoena power can an independent investigation occur and, if necessary, criminal charges be brought against those responsible."

"The betrayal of the public, the first responders and all those who courageously volunteered at ground zero following this brutal attack is unconscionable," stated Rep. Bill Pascrell, Jr. "Justice must be served. The lies and deceit have caused the deaths of men like James Zadroga, and caused thousands of others to become gravely sick. This Administration abandoned the very patriots who embodied our sense of national pride during a critical moment in American history. Now the Administration is failing to uphold our justice system. The reprehensible negligence and deception that has characterized the federal response to this real environmental health hazard is abhorrent. It is morally incumbent upon Attorney General Gonzalez to initiate the independent investigation that we have demanded."

In August, 2003, Rep. Nadler asked the Department of Justice to initiate a federal investigation of Ms. Whitman's response to World Trade Center contamination following 9/11. That request was based on EPA's negligence and wrongdoing that has been well documented, culminating in a report that year by the EPA Inspector General that also found that the White House instructed EPA to downplay air quality concerns. To our knowledge, DOJ never opened an investigation of this matter.

Today, Reps. Nadler, Weiner, and Pascrell renewed the call for a special counsel in light of several recent developments. A class action lawsuit was filed by residents, workers and school children against the EPA, and against Ms. Whitman personally, for taking actions and making statements that knowingly placed the victims in the way of harmful contamination. A federal judge ruled that the case against not only the government, but against Ms. Whitman personally, can go forward, and stated that Ms. Whitman's actions "shock the conscience." Two internal government memos were recently obtained under a Freedom of Information Act request, which reveal that the EPA knew the air around Ground Zero was unsafe. In addition, Ms. Whitman may have had a financial conflict-of-interest, and perhaps should have recused herself from the World Trade Center case.

"Unfortunately, the Department of Justice cannot investigate this matter. Since the Department's refusal to initiate an investigation two years ago, DOJ decided to represent the EPA and Ms. Whitman personally in the class action suit brought by residents, workers and students from New York," the Members wrote. "Therefore, only a special counsel can independently review this case and consider bringing charges against Christine Todd Whitman and other officials who recklessly endangered the lives and health of thousands of American citizens and heroes."

The full text of the letter can be found below. The attachments referenced in the letter can be obtained upon request.

September 13, 2006

The Honorable Alberto Gonzales

Attorney General

Department of Justice

950 Pennsylvania Avenue NW

Washington, D.C. 20530

Dear Attorney General Gonzales: We write to request that a special counsel be appointed to investigate whether criminal charges should be brought against former Environmental Protection Agency (EPA) Administrator Christine Todd Whitman, and against other government officials, for taking actions that may have endangered the lives of thousands of people following the September 11th, 2001 terrorist attack on the World Trade Center in New York.

In August, 2003, Rep. Nadler asked the Department of Justice (DOJ) to initiate a federal investigation of Ms. Whitman's response to World Trade Center contamination following 9/11. That request was based on EPA's negligence and wrongdoing that has been well documented, beginning with the EPA Ombudsman investigation, which resulted in two eleven-hour hearings in February and March of 2002, the transcripts of which are publicly available. Following these hearings, Rep. Nadler issued a White Paper in April, 2002, which documented Ms. Whitman's negligent actions, and identified what EPA should have done, and was legally mandated to do, but failed to do in the days following the World Trade Center attack (attachment #1). In 2003, the EPA Inspector General confirmed EPA's wrongdoing, but also found that the White House had instructed EPA to downplay air quality concerns. Unfortunately, despite convincing evidence of potential criminal malfeasance by the Federal Government in this matter, to our knowledge DOJ never responded to this request for an investigation.

Since that request in 2003, even more evidence has been uncovered that highlights the need for a special counsel. In 2004, a class action lawsuit was filed by residents, workers and school children against the EPA, and against Ms. Whitman personally, for taking actions and making statements that knowingly placed the victims in the way of harmful contamination. A federal judge ruled that the case against not only the government, but against Ms. Whitman personally, can go forward, and that "Whitman's deliberate and misleading statements made to the press, where she reassured the public that the air was safe to breathe around Lower Manhattan and Brooklyn, and that there would be no health risk presented to those returning to those areas, shock the conscience" (*Benzman v. Whitman*, 2006 U.S. Dist. LEXIS 4005 (S.D.N.Y. Feb. 2, 2006)). The judge also stated that "No reasonable person would have thought that telling thousands of people that it was safe to return to Lower Manhattan, while knowing such return could pose long-term health risks and other dire consequences, was conduct sanctioned by our laws," (*Ibid*).

In addition, internal government memos were recently obtained by Joel Kupferman of the New York Environmental Law & Justice Project, under the Freedom of Information Act, which reveal that the EPA knew that the air was unsafe. In a memo dated October 5, 2001, the Chief of the Response and Prevention Branch for the EPA wrote "Air sampling by EPA and others indicates that asbestos and other contaminants are present in the air at the WTC," (attachment #2). In another memo dated October 6, 2001, Kelly McKinney of the NYC Health Department wrote, "EPA has been charged with leading the air quality sampling effort," but that "EPA has been very slow to make data results available and to date has not sufficiently informed the public of air quality issues arising from this disaster" (attachment #3). Mr. McKinney went on to write that although people were being allowed back into buildings in the surrounding neighborhood, "DEP believes the air quality at those locations is not yet suitable for reoccupancy." Responsible officials never revealed this information to the public, and they allowed people to be exposed to this harmful contamination. Throughout this time, Ms. Whitman and other EPA officials repeatedly declared the air safe, despite the Agency's evidence to the contrary.

It is also troubling that Ms. Whitman may have had a financial conflict-of-interest, and perhaps should have recused herself from the World Trade Center case. Ms. Whitman's husband worked for Citigroup, which owns Traveler's Insurance, and Ms. Whitman's financial disclosure form shows that she and her husband own hundreds of thousands of dollars in Citigroup stock (attachment #4). According to news reports, Traveler's Insurance paid at least \$500 million in claims related to 9/11, and faced thousands of other potential claims from people who suffered physical damage or had damage done to their homes and businesses. At the EPA Ombudsman hearings, people testified that insurance companies denied claims, citing EPA's declaration that the air was safe. Ms. Whitman's recusal letter to the Ethics office clearly states that she will recuse herself from matters involving the Port Authority of New York & New Jersey, but curiously, does not state that she will recuse herself from matters involving Citigroup (attachment #5). As you know, the Port Authority owns the World Trade Center site, yet Ms. Whitman did not recuse herself from the case despite her connection to the Port Authority and to Citigroup. When the EPA Ombudsman raised the financial conflict-of-interest issue, as well as other problems with the Agency's response to 9/11, Ms. Whitman closed the Ombudsman's office and shut down its investigation. This matter should be investigated to determine if Ms. Whitman violated the conflict-of-interest statute in 18 USC §208 or any other related provision of law.

Despite the public outcry for justice for the 9/11 victims, Ms. Whitman continues to misrepresent the facts. In a recent interview on 60 Minutes, Ms. Whitman claimed that her many public comments that the air was safe were not meant to apply to Ground Zero ("the pile"), but only to the air in Lower Manhattan ("across the street"). Ms. Whitman stated, "Everything that the scientists were telling us. That the air &mdash; ambient air quality in lower Manhattan, this was not about the pile, this was about lower Manhattan &mdash; the readings were showing us that there was nothing that gave us any concern about long-term health implications." However, the above referenced Memos, the EPA IG Report, and other documents, prove this to be a false statement. To add insult to injury, she tried to shift the blame to the Giuliani Administration, and shockingly, even to the people exposed to WTC contamination stating "You know, it's hard to know when people, people hear what they wanna hear."

The reality is that Ms. Whitman repeatedly declared the air safe, and now thousands of people are sick, and some have died, from World Trade Center contamination. Studies come out every year showing that more than a majority of people exposed to 9/11 dust and debris suffer adverse health effects. On September 5, 2006, Mt. Sinai Medical Center released a study that found 70% of first responders suffer lung problems because of their work at Ground Zero. Information collected about the health effects on residents, people who work in the area, and school children show similar patterns.

Unfortunately, the Department of Justice cannot investigate this matter. Since the Department's refusal to initiate an investigation two years ago, DOJ decided to represent the EPA and Ms. Whitman personally in the class action suit brought by residents, workers and students from New York. Therefore, only a special counsel can independently review this case and consider bringing charges against Christine Todd Whitman and other officials who recklessly endangered the lives and health of thousands of American citizens and heroes.

Sincerely,

Jerrold Nadler

Anthony D. Weiner

Bill Pascrell, Jr.

Member of Congress

Member of Congress

Member of Congress

Attachments

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